

Application No: 09/549,328

PATENT

REMARKS/ARGUMENTS

Claims 1-62 are pending in the present application. The Examiner has rejected claims 1-62. Applicant respectfully requests reconsideration of pending claims 1-62.

The Examiner has rejected claims 1-6, 8-25 and 27-62 under 35 U.S.C. § 102(e) as allegedly being anticipated by Fedyk et al. (U.S. Patent Number 6,560,654). Applicant respectfully disagrees.

Regarding claim 20, Applicant has amended claim 20. Applicant reiterates Applicant's previously submitted arguments. For example, Applicant submits Fedyk teaches, in col. 5, lines 37-41, in the case of "a positive feedback message," that the "positive feedback message" indicates "...that such node is ready to receive data transmissions from the source node 12...." Accordingly, Applicant submits Fedyk's "feedback messages," whether "positive" or "negative," appear to relate to a readiness to receive data transmissions, not to "control plane congestion." Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claim 20 is in condition for allowance.

Regarding claims 21-29, Applicant reiterates Applicant's previously submitted arguments. Thus, Applicant submits claim 21-29 are in condition for allowance.

Regarding claims 1-6 and 8-10, Applicant has amended claim 1. To whatever extent the Examiner alleges that claims 1-6 and 8-10 "feature the same limitations as claims 20-25 and 27-29 and are rejected for the same reasons as claims 20-25 and 27-29," Applicant reiterates Applicant's arguments for the allowability of claims 20-25 and 27-29. Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claims 1-6 and 8-10 are in condition for allowance.

Regarding claim 30, Applicant reiterates Applicant's previously submitted arguments. Thus, Applicant submits claim 30 is in condition for allowance.

Regarding claim 31, Applicant reiterates Applicant's previously submitted arguments. Thus, Applicant submits claim 31 is in condition for allowance.

Regarding claim 32, Applicant has amended claim 32. Applicant reiterates Applicant's previously submitted arguments. For example, Applicant submits the cited portions of the cited

reference fail to disclose "...wherein the network parameters include communication network topology information and congestion information." Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claim 32 is in condition for allowance.

Regarding claims 33-40, Applicant reiterates Applicant's previously submitted arguments. Thus, Applicant submits claims 33-40 are in condition for allowance.

Regarding claims 11-19, Applicant has amended claim 11. To whatever extent the Examiner alleges that claims 11-19 "feature the same limitations as claims 32-40 and are rejected for the same reasons as claims 32-40," Applicant reiterates Applicant's arguments for the allowability of claims 32-40. Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claims 11-19 are in condition for allowance.

Regarding claim 41, Applicant has amended claim 41. Applicant reiterates Applicant's previously submitted arguments. Applicant submits Fedyk teaches, in col. 5, lines 37-41, in the case of "a positive feedback message," that the "positive feedback message" indicates "...that such node is ready to receive data transmissions from the source node 12...." Accordingly, Applicant submits Fedyk's "feedback messages," whether "positive" or "negative," appear to relate to a readiness to receive data transmissions, not to "control plane congestion." Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claim 41 is in condition for allowance.

Regarding claim 42, Applicant has amended claim 42. Applicant submits Fedyk teaches, in col. 5, lines 37-41, in the case of "a positive feedback message," that the "positive feedback message" indicates "...that such node is ready to receive data transmissions from the source node 12...." Accordingly, Applicant submits Fedyk's "feedback messages," whether "positive" or "negative," appear to relate to a readiness to receive data transmissions, not to "control plane congestion." Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claim 42 is in condition for allowance.

Regarding claim 52, Applicant has amended claim 52. Applicant submits Fedyk teaches, in col. 5, lines 37-41, in the case of "a positive feedback message," that the "positive feedback message" indicates "...that such node is ready to receive data transmissions from the source node 12...." Accordingly, Applicant submits Fedyk's "feedback messages," whether "positive" or "negative,"

appear to relate to a readiness to receive data transmissions, not to "control plane congestion." Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claim 52 is in condition for allowance.

Regarding claims 53-62, Applicant reiterates Applicant's previously submitted arguments. Thus, Applicant submits claims 53-62 are also in condition for allowance.

Regarding claims 43-51, Applicant has amended claim 43. To whatever extent the Examiner alleges that claims 43-51 "feature a method corresponding to that done by the congestion notification processor of claims 52-62 and are rejected for the same reasoning," Applicant reiterates Applicant's arguments for the allowability of claims 52-62. Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of anticipation. Thus, Applicant submits claims 43-51 are in condition for allowance.

The Examiner has rejected claims 7 and 26 as allegedly being unpatentable over Fedyk et al. (U.S. Patent No. 6,560,654) in view of Nishihara (U.S. Patent No. 6,424,620). Applicant respectfully disagrees.

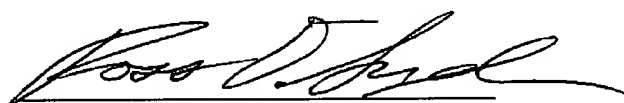
Regarding Claims 7 and 26, Applicant reiterates Applicant's previously submitted arguments. Therefore, Applicant submits the Examiner has failed to make a *prima facie* showing of obviousness. Thus, Applicant submits claims 7 and 26 are in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

Date

10/29/2007



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